

FUNDING OPTIONS AND OPPORTUNITIES FOR PERSONAL ASSISTANCE SERVICES AT THE WORKPLACE

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Previous chapters have discussed some of the challenges associated with finding an appropriate and reliable personal assistant. While most individuals with significant disabilities will not require the support of another person to accomplish routine daily living activities, these personal assistance services (PAS) are critically important for those who do. Once the potential new employee finds the right individual to provide personal assistance services, building a long-term relationship is most important for establishing high quality, consistent, and reliable care. Knowing how to access a range of financial options for supporting these services is key to building this successful relationship with a personal assistant. This chapter highlights information on possible funding options and provides a detailed explanation of how Social Security Work Incentives can be used for accessing workplace personal assistant services. The table on the following page highlights a variety of possible funding options with a brief description of each resource.

◆ POSSIBLE FUNDING OPTIONS

When thinking about possible funding options for a workplace PAS, the most obvious resource is the business and/or employer. Yet, in order for the business to be legally liable for providing a PAS, specific criterion must be met according to the Americans with Disabilities Act (ADA). These criterion are: 1) the applicant must disclose his or her disability during the interview process, 2) the business must have fifteen or more employees to be subject to ADA regulations, 3) the PAS must be needed to complete the essential functions of the job, and 4) payment of the PAS must not create an undue hardship for the business. When the employer is not an option for securing payment for workplace PAS, other potential funding options do exist. An excellent funding source for PAS can be found in state government programs.

State-based funding options for PAS are varied and may look very different from state-to-state. The state Vocational Rehabilitation (VR) agency is one possible funding option for those individuals with disabilities who utilize VR services while pursuing employment. If available, these funds

◆ **FUNDING OPTIONS FOR WORKPLACE PERSONAL ASSISTANCE SERVICES**

Employers

Under the Americans with Disabilities Act (ADA), an employer can be responsible for providing PAS as a reasonable accommodation if necessary criterion are met.

State Vocational Rehabilitation

Several state vocational rehabilitation programs (VR) have well developed programs that fund personal assistant services for individuals with significant disabilities who qualify for VR services. Typically, the PAS must be required for the individual to participate in the Individual Plan for Employment that will specifically outline plans for achieving employment outcomes.

State Medicaid-Funded Waiver Programs

In many states across the country, PAS can be obtained through Medicaid funded waiver programs. Generally, access to these services is determined by a state's office of medical assistance services. Medicaid Waiver programs will have strict eligibility criterion that must be met for participation.

Impairment Related Work Expense (IRWE)

The purpose of an IRWE as an incentive is to enable individuals with disabilities to recover some of the costs of the expense incurred to support their work as a result of their disability. PAS would be an allowable cost under the IRWE program.

Plans for Achieving Self Support

This Supplemental Security Income (SSI) work incentive allows a person to set aside income and/or resources that he/she have (or will have in the near future) to be used to achieve a specific work goal. PAS would be considered an allowable service.

When the employer is not an option for covering the cost of workplace PAS, other potential funding options do exist.

would be accessed through the VR counselor assigned to the potential employee's case. The customer and the counselor would jointly complete an Individual Plan for Employment (IPE) that specifically outlines plans for achieving an employment outcome by using a PAS.

Another possible state-based option is the state's Medicaid Waiver program. Information regarding a state's Medicaid Waiver program can be accessed through a state office of medical assistance. Within each state, there exist specific eligibility criterion and guidelines for use of the Medicaid Waiver. Generally, these guidelines will require the applicant to document the presence of limitations resulting from a disability that require the services potentially available from the Medicaid Waiver for the individual to live in the community (as compared to an institutional setting). A financial needs test for Medicaid eligibility is also generally required. It is important to note that the specific state Medicaid Waiver program for which the individual is eligible must include workplace PAS as an allowable service for PAS to be funded through the Waiver.

The Social Security Administration (SSA) can be another important funding option for PAS. SSA has long recognized that some major disincentives to employment exist within its disability benefit system. Beginning in the early 1970s, a broad range of programs and work incentives for individuals receiving Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) were developed. Over the years since their inception, most of these incentives have been adjusted and redefined in an ongoing effort to increase their effectiveness and ultimately their usage. Today, while there is a full range of work incentives for beneficiaries, the results of these incentives in promoting employment has been limited for Social Security Disability beneficiaries.

The two major SSA work incentives that can be used to purchase PAS are Plans for Achieving Self Support (PASS) for SSI recipients and Impairment Related Work Expense (IRWE) for SSI and SSDI beneficiaries. The table on the following page highlights some of the advantages for initiating a PASS or IRWE.

◆ GENERAL PASS PLAN REQUIREMENTS

A Plan for Achieving Self Support (PASS) allows a person with a disability to set aside income and/or resources for a specific period of time to realize a work goal. Any person who receives SSI benefits, or receives SSDI and could qualify for SSI, can have a plan. There is no limit to the number of successful PASS plans a person receives .

◆ SSA WORK INCENTIVES FOR PURCHASING PERSONAL ASSISTANCE SERVICES (PAS) AND OTHER WORK SUPPORTS

**PLANS FOR ACHIEVING SELF-SUPPORT
PASS**

**IMPAIRMENT RELATED WORK EXPENSE
IRWE**

DEFINITION

A **PASS** enables an individual to set aside income and resources to purchase goods or resources, including Personal Assistance Services, that will help the person achieve a vocational goal.

An **IRWE** enables a person with a disability to recover expenses incurred as a result of his/her disability. The expenditure must be needed to support work activities and related to the person's disability.

ACQUIRING PERSONAL ASSISTANT SERVICES

A PASS will make it possible for an individual to hire a workplace personal assistant to provide as workplace support for accomplishing activities of daily living and/or essential functions of the job.

An IRWE can be used for a variety of workplace supports to include personal assistant services, purchase of assistive technology, special transportation services, and job coaching support.

WORK INCENTIVE PROGRAM CRITERION

The PASS must include the following five components 1) individualized obtainable vocational goal; 2) time frame for meeting the goals; 3) identification of resources and the amount of income or resources to be set aside; 4) explanation of how the money will be used; and 5) a written plan.

An IRWE must contain a the following four components: 1) information indicating that expenses are directly related to work, 2) documentation of cost paid by the individual with a disability; 3) records of expenses paid during months of employment, and 4) indication that expenses are reasonable.

EFFECTS ON BENEFITS

Income and resources set aside in a PASS are not counted in determining SSI eligibility or in calculating the amount of SSI benefit. PASS can assist in supporting a new employee to:

- ▶ qualify for SSI,
- ▶ maintain current SSI payment, or
- ▶ increase SSI benefits

An IRWE enables SSI recipients to recover some of the expenses incurred as a result of a disability to support their work. For SSI recipients, deducting the cost of the IRWE from gross wages increases the amount of the SSI check. For SSDI beneficiaries, deducting an IRWE may keep gross monthly earnings below Substantial Gainful Activity (SGA) level and thereby maintain SSDI eligibility.

BASIC REQUIREMENTS

There are essentially ten basic requirements for setting up a PASS Plan. It will be important to follow each requirement to achieve success. The plan must include the following:

- ▶ **Increase the person's self-support/self-reliance and decrease reliance on the Social Security system.**
- ▶ **Be designed specifically for the person.**
- ▶ **Be in writing.**
- ▶ **Have a specific work goal that the person is capable of performing (unless there is evidence to the contrary, SSA PASS Specialists will presume an occupational goal to be feasible and a PASS to be viable).**
- ▶ **Have a specific time frame for reaching the goal.**
- ▶ **Show what money and other resources received will be used to reach the goal.**
- ▶ **Show how the money and resources will be used.**
- ▶ **Show how the money set aside will be kept identifiable from other funds.**
- ▶ **Be approved by the Social Security Administration.**
- ▶ **Be reviewed periodically to assure compliance.**

LIKELY CANDIDATES FOR A PASS

If an individual has never had a PASS Plan, a good place to begin is to determine if he/she will be a likely candidate. The following seven profiles are individuals who would benefit from a PASS Plan.

Resources in Excess of Allowable Limits -- Individuals who do not have earned or unearned income and have not qualified for SSI in the past (due to resources in excess of the resource limit - generally defined as over \$2,000 in non-excluded resources.) Establishing a PASS allows individuals to set aside resources to achieve vocational goals and, as a result, they may qualify for SSI.

Unearned Income Only -- Individuals with unearned income only (SSDI, SSDAC, railroad pension checks, parental subsidies/gifts, etc.) can establish a PASS to exclude income (use all or part of the income to pay for PASS expenses) and establish SSI/Medicaid eligibility.

Earned Income Only -- Individuals who have earned income only can set aside earnings in a PASS and begin receiving SSI checks and Medicaid.

Both Earned and Unearned Income -- Individuals who have earned income and unearned income can set aside their wages, Title II (SSDI) payments, or both to establish SSI/Medicaid benefits.

Earned Income and Receiving SSI/Medicaid -- Individuals who have earned income and are receiving SSI checks can set the earnings aside in a PASS to prevent reduction of their SSI checks.

Earned Income (in the future) and Receiving SSI/Medicaid -- Individuals who have SSI only, but will begin working in the near future, can establish a PASS to set aside new wages starting with the first month of employment. The SSI check will only be reduced by the amount of countable income not excluded by the PASS.

In School or Training -- Potential PASS candidates having income/resources including those individuals in school or training programs, currently receiving services from rehabilitation agencies, or interested in rehabilitation and becoming self-supporting.

PASS APPROVAL REQUIREMENTS

The PASS approval requirements are not long or difficult. However, it is important to remember that careful attention must be paid to each area. For example, having an occupation goal and milestone step without a clear timetable for success will not be approved.

- 1. Feasible Occupational Goal** -- Although SSA must assume that the occupational goal is feasible for the person and that it will generally raise the ability of the person to become more self-supporting, the agency requires information regarding the proposed vocational goals. Needed information includes job title (or if self-employed, the type of business), age of the person, any prior work history, education and training, and type of disability. The PASS must also indicate current earnings after the PASS has been completed.
- 2. Interval Steps/Milestones** -- The PASS should include specific time frames/milestones that document a person's progress toward achieving his/her stated PASS goal. These should be criterion-based statements (e.g., begins school/job coaching, hired for job, etc.) that show the steps to goal achievement.
- 3. Definable Timetable** -- Specific time frames for meeting vocational goals must be established within the PASS. Provide schedules for meeting the vocational goals, indicating the month and year it is expected to begin and end.

4. **Income/Resources to be Set Aside** -- Plans must state the sources and amount of income or resources to be set aside (earnings, benefit supports, savings accounts, etc.). The sources and amounts must be adequate to achieve the goals, but cannot be excessive. Separate accounts for PASS monies (checking accounts) provide excellent verification of PASS savings and expenditures.
5. **Expenditures** -- The PASS must state how the money set aside will be spent to achieve the occupational goal. A list must be included of monthly planned expenditures, grouped or categorized with an explanation of their connection to the occupational goal. Expenses must be reasonable to be approved. Cost estimates for goods and services should indicate how the cost was calculated.
6. **Organization** -- The PASS must be in writing, but there is no mandatory format. Forms are available to assist applicants.
7. **Deferred Expenses** -- Not all expenses may be allowed at the beginning of the PASS. In some cases, approval of certain goods and services may be contingent on the successful completion of milestones that justify the expense.

EXAMPLES OF POSSIBLE PASS EXPENDITURES

The PASS Work Incentive will fund any goods/services that will enable a person to become more self-sufficient. In many instances, due to the availability of funding through the PASS, paying for items must be prioritized as to their relative importance in the person's employment plan.

- ▶ **Equipment, supplies, operating capital, and inventory required to establish a business;**
- ▶ **Any cost associated with an educational or occupational training program, including tutoring, counseling, etc.;**
- ▶ **Attendant care, personal assistance services;**
- ▶ **Child care;**
- ▶ **Equipment or tools, either specific to the individual's condition or designed for general use;**
- ▶ **Uniforms, specialized clothing (including dress business clothing), safety equipment;**
- ▶ **Least costly alternatives for transportation including:**
 - **public transportation and common carriers**
 - **hire of private or commercial carriers**
 - **purchase of a private vehicle;**

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- ▶ Dues and publications for academic or professional purposes;
- ▶ Operational or access modifications to buildings or vehicles to accommodate disability; and
- ▶ Licenses, certifications, and permits necessary for employment.

◆ **IMPAIRED RELATED WORK EXPENSES (IRWE)** —————

IRWEs enable SSI recipients to recover some of the expenses incurred as a result of their disability to support their work, and they allow SSDI/SSDAC beneficiaries to decrease reliance on SSDI benefits. The IRWE is much easier to apply for than PASS plans.

For the SSI recipient, deducting the cost of the IRWE from monthly gross wages increases the amount of SSI check benefit that he/she receives. For Title II (SSDI) beneficiaries, deducting an IRWE may keep gross monthly earnings below SGA, thus allowing them to maintain Title II eligibility.

AN IRWE DEDUCTION MUST MEET THE FOLLOWING CRITERIA

- ▶ Expenses must be directly related to enabling the person to work;
- ▶ Individuals, because of a severe physical or mental barrier, need the items or services to be employed or maintain employment;
- ▶ Costs must be paid directly by the person and not be reimbursable from other sources;
- ▶ Expenses must be paid in a month in which the person is working; and
- ▶ Expenses must be reasonable.

DEDUCTIBLE IRWE EXPENSES INCLUDE

- ▶ Supported employment services that further self-sufficiency;
- ▶ Work-related attendant care services, used to prepare to go to work and/or in the workplace; services can be performed by family

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members who can prove that caregiver suffers economically due to performing the service;

- ▶ Transportation costs, i.e., vehicle modification to get to work, SSA approved mileage expenses for travel to and from work, cost of drivers or taxi services;
- ▶ Medical devices, wheelchairs, pacemakers, respirators, etc., that allow someone to work;
- ▶ Prosthetics to enable employment;
- ▶ Residential modifications, either interior (if the person works from the home), or exterior (modifications to enable access to public thoroughways or transportation);
- ▶ Routine drugs or medical services to reduce the effects of the disability;
- ▶ Diagnostic procedures related to evaluation, control, or treatment of disabling condition;
- ▶ Prescribed non-medical appliances and devices essential for controlling the disabling condition at home or work (e.g., air filtering equipment);
- ▶ Cost of expendable medical supplies; and
- ▶ Cost of service dogs, such as dog food, licenses, and veterinary services.

BUSINESS CASE STUDY: USING AN SSI WORK INCENTIVE FOR PERSONAL ASSISTANT SERVICES

Mary Ellen is a middle-aged woman who lives independently with the support of a personal assistant. Mary Ellen has been employed as an office receptionist for two months and is earning a gross monthly salary of \$1,150. In addition to her salary, Mary Ellen receives SSI benefits. Her total countable income is in excess of SSA's Federal Benefit Rate (FBR) of **\$512.00**, and Mary Ellen anticipates that she will no longer financially qualify for SSI benefits. The presenting problem for Mary Ellen is that she needs the support of a workplace personal assistant during key points of her work day to maintain employment. Mary Ellen continues to have the following work related monthly expenses:

▶ Personal Assistant Services (10 hours a month @ \$30 per hour medical certification, etc.)	\$300
▶ Special Transportation Services	\$90
▶ TOTAL WORK RELATED MONTHLY EXPENSES	\$490

Mary Ellen's Benefits Planner met with her to demonstrate how SSA's IRWE work incentive could be used to pay for the work related expenses described above. She can potentially receive up to one-half of the IRWE through an increase in SSI cash benefits because of where the IRWE exclusion is applied in the SSI Formula. In Mary Ellen's case, the example below illustrates how the IRWE will affect her SSI cash benefit.

STEP 1.	Gross Earned Income	\$1,150.00
	General Income Exclusion	<u>-\$20.00</u>
	TOTAL	\$1,130.00
STEP 2.	Earned Income Exclusion	<u>-\$65.00</u>
	TOTAL	\$1,065.00
STEP 3.	IRWE	<u>-\$490.00</u>
	TOTAL	\$575.00
STEP 4.	Divide by 2	<u>2</u>
	TOTAL COUNTABLE INCOME	\$287.50
STEP 5.	Federal Benefit Rate	\$512.00
	Total Countable Income	<u>-287.50</u>
	SSI	\$224.50
STEP 6.	Gross Earned Income	\$1,150.00
	SSI	<u>+ 224.50</u>
	TOTAL INCOME	\$1,374.50
	IRWE	<u>- 490.00</u>
	TOTAL USABLE INCOME	\$ 884.50

It will be important for Mary Ellen to keep accurate records of her IRWE, as well as all of her correspondence with SSA. Mary Ellen's Benefits Planner recommended that she develop a Social Security notebook that would identify SSA contact names, date of contact, and information obtained. Moreover, Mary Ellen must know her rights and understand that she has the right to appeal any and all decisions made by SSA, including eligibility decisions. If an appeal is made and won, the

decision will be retroactive from the date of the appeal. Therefore, even if a beneficiary is counseled that she/he does not stand a chance of winning the appeal, it is wise to make a formal application of appeal and to keep on trying, even if the appeal is not won on the first attempt.

◆ OTHER NOTABLE SSA PROGRAMS

BLIND WORK EXPENSE (BWE)

Blind Work Expense differs significantly from other SSA Work Incentive Programs. A BWE allowable expense needs only to be work-related expenses incurred by the person.

Effective January 1, 1999, the monthly substantial gainful activity (SGA) amount for persons receiving Social Security disability benefits based on blindness is \$1,100. This is a \$50/month increase over the 1998 amount. The nonblind SGA amount remains at \$700/month.

It is important to remember that since 1997, the blind SGA amount is no longer tied to the over-age 65 retirement earnings test. That amount will rise significantly over the next four years, based on legislation signed in March, 1996, until it reaches \$30,000 per year in 2002.

Although de-coupled from the retirement earnings test, the blind SGA amount continues by law to be adjusted annually based on the national average wage index.

STUDENT EARNED INCOME EXCLUSION (SEIE)

The SEIE is a Title XVI work incentive that allows people under age 22, who regularly attend school, to exclude up to \$400 of earned income per month (or up to a maximum of \$1,620 per year). This exclusion is applied before any other exclusion.

“Regularly attending school” means that the person takes one or more courses of study and attends classes:

- ▶ **In a college or a university for eight hours per week; or**
- ▶ **In grades 7-12 for 12 hours per week; or**
- ▶ **In a training course to prepare for employment for 12 hours per week (15 hours per week if the course involves shop practice); or**
- ▶ **For less time than indicated above for reasons beyond the student’s control, such as illness.**

Reporting SEIE to the SSA Claims Representative

The following information must be reported to the SSA claims representative for SEIE:

- ▶ **Whether the student was regularly attending school in at least one month of the current calendar quarter or he/she expects to attend school for at least one month in the next calendar quarter; and**
- ▶ **The amount of the student's earned income.**

SECTION 301

Section 301 provides for a continuation of SSI and/or Title II benefits to people who have medically recovered but are participating in an approved vocational rehabilitation (VR) program if:

- ▶ **They are participating in an approved VR program (school, job development, coaching, situational assessments, site evaluations, etc.) at the time that their disability ceases; and**
- ▶ **SSA has determined that the person's continued participation in the VR program will increase the likelihood of permanent removal from the disability benefit rolls.**

◆ **SUMMARY**

This chapter describes several options for funding personal assistant services. It is important that each individual exploring funding options understands that many PAS resources are unique to each specific state. Local Independent Living Centers and brain injury support groups can be valuable supports in helping to identify state specific PAS resources. For SSI and SSDI recipients, the Social Security work incentives remain a valuable option. The Social Security Administration continues to improve its work incentives program to assist individuals with significant disabilities achieve the employment goals that they seek. On December 17, 1999, the President signed into law the Ticket to Work and Work Incentive Improvement Act of 1999 (TWWIIA). This law is designed to: 1) increase beneficiaries choice in obtaining rehabilitation and vocational choices; 2) remove barriers that require people with dis-

abilities to choose between health coverage and work; and 3) increase work opportunities while decreasing dependence on public benefit. Many of these programs will be rolled-out over the coming years. It is important for interested participants to carefully monitor the Social Security Administration's web site at www.ssa.gov. This web site will always provide the most up to date information related to all of SSA's work incentive program.

